

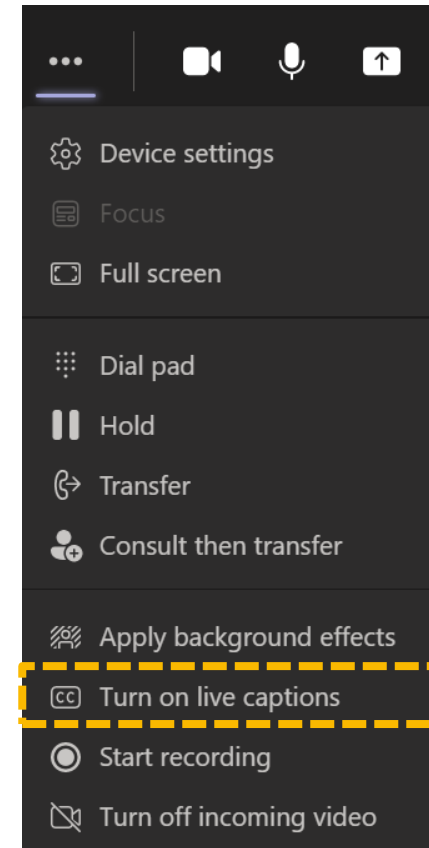
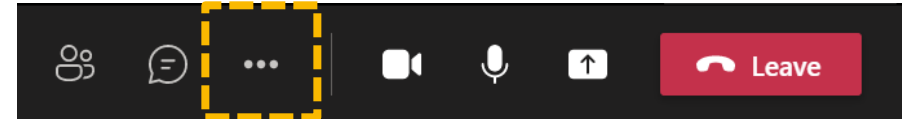
# 4th EJ Rulemaking Stakeholder Meeting

Renewal/Expansion  
Conditions & Compelling  
Public Interest

04/07/21

# Turn on Live Captions (Closed Captioning)

1. At the top right of the Teams window, locate and click on the ellipsis (three dots).
2. Multiple options will appear; locate and click on "Turn on live captions"
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# Agenda

- Introduction and rules for engagement
- Implementation, limitations, and 4-step potential process
- Permit conditions (facility expansions or Title V renewals)
- Compelling public interest
- Questions and answers

## Next Steps

- Next stakeholder meeting: **May 6, 2021**
  - Topic: Environmental Justice Impact Statement and Permitting Process
  - 10am: Business and Industry
  - 6pm: Environmental Justice and Environmental/Community Organizations
- This presentation, meeting recording, and follow up survey link will be emailed to participants and posted on **NJDEP OEJ website** shortly following the meeting

# Rules of Engagement

- Please remain on mute unless speaking.
- When you want to speak during facilitated discussion, please use the "Raise Hand" function.
- Treat everyone with respect.
- Limit your comment or question to the topic being discussed.
- Limit facilitated discussion comments to two minutes. We will physically raise our hand as you approach 90 seconds.
- Please note that this meeting is being recorded and will be posted on the NJDEP website after the session concludes.

# Implementation

- **Guiding Principles**

1. Follow the law
2. Use the best available science
3. Listen to all sides
4. Find the best balance
5. Be transparent and honest with the public

- **Stakeholder Process**

- Topics Covered: Geographic Point of Comparison, Facility and Permit Definition, Environmental and Public Health Stressors
- Today: Conditions for Renewal & Expansion / Compelling Public Interest
- Upcoming: Environmental Justice Impact Statement and Process (05/06/21), Summary and Overview (early June)

# Limitations

- The Bill does not require absolute denial of environmental permits for new facilities.
- The Bill does not allow DEP to deny facility expansions or permit renewals.
- Requires an analysis of localized public health and environmental impacts and an analysis of additional controls that can be put in place to reduce localized pollution as conditions to any permit.
- Not effective until adoption of regulations.

# Potential Process: 4 Steps

- **Step 1 – Initial Screen:** Using the publicly-available data mapping tool, determine whether OBC is subject to disproportionate environmental and public health stressor levels when compared to the appropriate geographic point of comparison.
- **Step 2 – Disproportionate Impact Analysis:** Through the preparation of an Environmental Justice Impact Statement process, including a public hearing in the host community, Applicant analyzes whether and how the proposed facility will cause or contribute to disproportionate stressor levels and proposes avoidance measures. If the Applicant cannot avoid cause or contribution, a disproportionate impact is present.
- **Step 3 – Permit Conditions (Facility Expansions/Title V Renewals):** Where necessary to avoid or minimize potential adverse impacts, Department imposes binding permit conditions concerning the construction and operation of the facility.
- **Step 4 – Denial or Compelling Public Interest (New Facilities):** The Department shall deny the permit application unless the new facility will serve a compelling public interest in the community where it is to be located. If so, the Department may impose binding permit conditions on the construction and operation of the facility to protect public health.

# Permit Conditions

Facility Expansions or Title V Renewals



# Statutory Context

*Facility Expansions or  
Title V Renewals*

Where a disproportionate impact exists:

“...the department may.... apply conditions to a permit for the expansion of an existing facility, or the renewal of an existing facility’s major source permit, concerning the construction and operation of the facility to protect public health”

# For Discussion: New v. Expansion v. Renewal

- How should the Department consider new facilities v. expanded facilities v. permit renewals?
- For example:
  - New: Newly sited facility or change in use of existing facility
  - Expansion: Expansion of footprint or increase in emissions of existing facility
    - Replacement or reconstruction of equipment?
  - Renewal: Continuation of existing operations
  - Statutory Exemption: Minor modifications to major source permit for activities/improvements that do not increase emissions
- How should the Department treat applications that reduce impacts?
  - Example: Expansion of Facility that involves improved pollution controls on direct air emissions
    - No change in mobile source contributions? Reduces mobile source contributions? Increases mobile source contributions?

# For Discussion: Permit Conditions

- How should the Department consider the application of conditions on construction or operations of expanded facilities or for Title V renewals to protect public health?
- Should avoidance, and if not feasible, minimization of facility contributions to disproportionate stressors be a standard condition?
  - For Title V renewals, should a Best Available Control Technology/State of the Art standard be imposed?
    - Every 5 years (standard renewal timeframe) or longer?
- For situations where facility contributions cannot be avoided, should the Department consider additional measures to improve baseline environmental and public health stressors in the host community?
- Examples:
  - Require reductions of like stressors from offsite sources within the host community?
  - Require reductions of other stressors from offsite sources in the host community?
  - Require an applicant to deliver a net environmental benefit that improves baseline environmental and public health stressors in the host community?
- If considering measures to reduce stressors elsewhere in the community, should the Department consider reductions requiring reductions to stressors in order from the highest to lowest contributors?

# Compelling Public Interest

# Statutory Context

*Compelling Public Interest*

Where a disproportionate impact exists:

“...the department shall ... deny a permit for a new facility ... except that where the department determines that a new facility will serve a compelling public interest **in the community** where it is to be located, the department may grant a permit that imposes conditions on the construction and operation of the facility to protect public health”

# For Discussion: Compelling Public Interest

- How should the Department consider whether a facility will serve a compelling public interest in the community where it is proposed to be located?
- Should the Department require a consideration of alternatives to siting in an OBC? Alternatives in design that could be less impactful? Operations?
- Are there specific projects or impacts that should be considered in a compelling public interest analysis?
- Are there specific types of projects that should not be considered in a compelling public interest analysis?

# For Discussion: Compelling Public Interest

- When attempting to demonstrate that a facility will serve a compelling public interest in the host community, should minimization of contributions to disproportionate stressors be a requirement?
- For situations where facility contributions cannot be avoided, should the Department:
  - Consider whether the facility itself will serve a compelling public interest in the community?
    - Serves an environmental, public health or safety need in the community?
  - Consider additional measures proposed by the facility to improve baseline environmental and public health stressors in the host community?
    - Require reductions of like stressors from offsite sources within the host community?
    - Require reductions of other stressors from offsite sources in the host community?
    - Require an applicant to deliver a net environmental benefit that improves baseline environmental and public health stressors in the host community?

# For Discussion: Compelling Public Interest

- How should the Department consider the interest of the individuals in the host community in a proposed project when assessing compelling public interest?
  - If the community concurs with a project that seeks to provide environmental or public health benefits, is that sufficient to establish compelling public interest?
  - How can the Department ensure an accurate assessment of community concurrence?



# Q&A

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